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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/872,086	05/31/2001	John M. Polo	15900.002	3827	
7	590 11/28/2001				
Chiron Corpo	oration	EXAMI	EXAMINER		
Intellectual Pro PO Box 8097	operty - R-3	BROWN, STACY D			
Emeryville, CA 94662-8097			ART UNIT	PAPER NUMBER	
			1648		
			DATE MAILED: 11/28/2001	0	

Please find below and/or attached an Office communication concerning this application or proceeding.

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		Application	Application No.		Applicant(s)				
	09/872,08	6		POLO ET AL.					
	Examiner	-		Art Unit					
		Stacy S Br			1648				
Period fo	The MAILING DATE of this communication a r Reply	appears on the	cover	sheet with the c	orrespondence ad	dress			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).  - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).									
Status 1\⊠	Responsive to communication(s) filed on 3	R1 May 2001							
1)⊠ 2a)□	•		non-fir	nal					
3)									
Dispositi	on of Claims								
4)🖂	Claim(s) 1-28 is/are pending in the applicat	tion.							
4a) Of the above claim(s) is/are withdrawn from consideration.									
5) Claim(s) is/are allowed.									
6) Claim(s) is/are rejected.									
7)	Claim(s) is/are objected to.								
8) Claim(s) 1-28 are subject to restriction and/or election requirement.									
Application Papers									
9) The specification is objected to by the Examiner.									
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.									
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).									
11) ☐ The proposed drawing correction filed on is: a) ☐ approved b) ☐ disapproved by the Examiner.									
If approved, corrected drawings are required in reply to this Office action.									
12)☐ The oath or declaration is objected to by the Examiner.									
-	nder 35 U.S.C. §§ 119 and 120								
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).									
a) All b) Some * c) None of:									
	1. Certified copies of the priority documents have been received.								
	2. Certified copies of the priority documents have been received in Application No								
<ul> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>									
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).									
a) ☐ The translation of the foreign language provisional application has been received.  15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.									
Attachment(s)									
2) 🔲 Notic	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449) Paper No(		5) 🔲		/ (PTO-413) Paper No Patent Application (PT				

Application/Control Number: 09/872,086

Art Unit: 1648

## **DETAILED ACTION**

- 1. The Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to **Group Art Unit 1648**.
- 2. Claims 1-28 are pending.

## Election/Restrictions

- 3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - Claims 1-12, drawn to a method for purifying alphavirus replicon particles, classified in class 435, subclass 243.
  - II. Claims 13-15, drawn to a method for stimulating an immune response, classified in class 435, subclass 455.
  - III. Claims 16-19, drawn to a method of producing alphavirus replicon particles comprising infecting alphavirus packaging cells with a seed stock of alphavirus particles, classified in class 435, subclass 69.1.
  - IV. Claims 20-21, drawn to a method for producing alphavirus replicon particles comprising transfecting alphavirus packaging cells with a DNA-based alphavirus replicon or RNA vector replicon, classified in class 435, subclass 69.1.
  - V. Claims 22-24, drawn to a method for detecting multiple recombination events in a population of alphavirus replicon particles, classified in class 435, subclass 69.1.
  - VI. Claim 25, drawn to a method for quantitating alphavirus replicon vector particles, classified in class 435, subclass 5.

The inventions are distinct, each from the other because of the following reasons:

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Inventions I-VI are all unrelated to each other. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are drawn to methods of purification of alphavirus particles, stimulating an immune response using alphavirus particles, producing alphavirus particles by infecting with seed stock, producing alphavirus particles by transfection, detecting multiple recombination and quantitating alphavirus particles. These methods have different method steps requiring different reagents, and do not share modes of operation, functions and effect. The methods are not disclosed as capable of use together.

Because these inventions are distinct for the reasons given above and the literature search required for one group is neither required nor co-extensive with any other group, restriction for examination purposes as indicated is proper.

A telephone call was made to Anne Dollard on November 15, 2001 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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## Conclusion

Papers relating to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 located in Crystal Mall 1. The Fax number for Art Unit 1648 is (703) 308-4426. All Group 1600 Fax machines will be available to receive transmissions 24 hrs/day, 7 days/wk. Please note that the faxing of such papers must conform with the Notice published in the Official Gazette, 1096 OG 30, (November 15, 1989).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Stacy S. Brown, whose telephone number is (703) 308-2361. The Examiner can normally be reached on Monday through Friday and alternate Wednesdays from 6:30 AM-4:00 PM, (EST). If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, James C. Housel, can be reached at (703) 308-4027. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Stacy S. Brown

November 27, 2001